

Surface Mining Reclamation and Enforcement, Interior

§ 921.772

(d) The recordkeeping and reporting requirements of this part are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507.

(e) There are no Massachusetts laws which provide more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Surface Mining and Reclamation Act and the regulations in 30 CFR chapter VII.

(f) The following are Massachusetts laws that interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded insofar as they apply to surface coal mining operations regulated under the Act:

(1) The Coal Mining Regulatory and Reclamation Act of 1977, as amended, Mass. Ann. Laws. Ch. 21B, Sections 1–15.

(2) Statutes governing licenses for minerals exploration, Mass. Ann. Laws Ch. 21, section 54–56.

(g) The Secretary may grant a limited variance from the performance standards of §§ 921.815 through 921.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 921.772 through 921.785 demonstrates in the application that:

(1) Such a variance is necessary because of the nature of Massachusetts' terrain, climate, biological, chemical or other relevant physical conditions; and

(2) The proposed variance is not less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

[48 FR 41004, Sept. 12, 1983, as amended at 52 FR 13808, Apr. 24, 1987]

§ 921.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15, and part 701 of this chapter shall apply to surface coal mining and reclamation operations in Massachusetts.

§ 921.702 Exemption for coal extraction incidental to the extraction of other minerals.

Part 702 of the chapter, *Exemption for Coal Extraction Incidental to the Extraction of Other Minerals*, shall apply to any person who conducts coal extraction incidental to the extraction of other minerals for purposes of commercial use or sale.

[54 FR 52123, Dec. 20, 1989]

§ 921.707 Exemption for coal extraction incident to Government-financed highway or other construction.

Part 707 of this chapter, *Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction*, shall apply to surface coal mining and reclamation operations.

§ 921.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, *Areas Designated by Act of Congress*, shall apply to surface coal mining and reclamation operations.

§ 921.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, shall apply to surface coal mine operations.

§ 921.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities, are applicable in Massachusetts beginning on May 28 1983.

§ 921.772 Requirements for coal exploration.

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application

within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

[52 FR 13809, Apr. 24, 1987]

§921.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the applications to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by §921.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by §773.6 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with

actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) No person shall conduct coal exploration which results in the removal of more than 250 tons of coal nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR part 773 and applicable permits issued pursuant to the laws of the State of Massachusetts, including: The Historic and Scenic Rivers Act, Mass. Ann. Laws Ch. 21, sections 8-17B; Massachusetts Register of Historic Places, Mass. Ann. Laws Ch. 152 and the regulations (950 CMR 71); Historical Preservation Statutes, Mass. Ann. Laws Ch. 9, sections 26-27(D); real property statutes, Mass. Ann. Laws Ch. 184, sections 31-32; statutes governing State forests and parks, Mass. Ann. Laws Ch. 132, sections 40-46; of the Wetlands Protection Act Ch. 131, sections 40-46; statutes and rules governing dredging permits, Mass. Ann. Laws Ch. 21A; section 14, 310 CMR 9.01 *et seq.*; the Massachusetts Hazardous Waste Management Act Ch. 21C, sections 1-14; the Massachusetts Clean Water Act Ch. 21, sections 26-53; statutes governing the construction of roads, drains, or ditches, Mass. Ann. Laws Ch. 252, Sections 15-18; statutes governing drilling or removal of sand or any minerals, Mass. Ann. Laws Ch. 132A, Sections 13-181 and statutes governing use, storage, and handling of explosives, Mass. Ann. Laws Ch. 148, Sections 9-19.

(e) The Secretary shall provide for coordination of review and issuance of a coal exploration or surface coal mining and reclamation permit with the review and issuance of other Federal